IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	DEL PRADO PAVON, et al.
Serial No.	:	10/559,840
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Filing Date	:	December 8, 2005
Group Art Unit	:	2416
Examiner	:	Ben Liu
Attorney Docket No.	:	PHUS030168US

APPEAL BRIEF
On Appeal from Group Art Unit 2416

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Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed on May 18, 2009

and in response to the final Office Action of February 18, 2009.

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I. REAL PARTY IN INTEREST

The real party in interest is Koninklijke Philips Electronics N.V., the assignee of record.

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any pending appeals, judicial proceedings, or interferences which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

a)   Claims 1, 2, 4-12, and 14-20 are pending at the time of filing the appeal brief.

b)   Claims 1 and 11 are independent.

c)   Claims 1, 2, 4-12, and 14-20 stand rejected and are the subject of this appeal.

d)   Claims 3 and 13 are cancelled.

IV. STATUS OF AMENDMENTS

The claims listed in section "VIII. Claims Appendix" of this Appeal Brief correspond to the claims as submitted in Appellant's amendment filed November 14, 2008. No claim amendments have been submitted following the amendment of November 14, 2008, nor are any amendments pending.

V. SUMMARY OF CLAIMED SUBJECT MATTER

It should be explicitly noted that it is not the Appellant's intention that the currently claimed or described embodiments be limited to operation within the illustrative embodiments described below beyond what is required by the claim language. Further description of the illustrative embodiments are provided indicating portions of the claims which cover the illustrative embodiments merely for compliance with requirements of this appeal without intending to read any further interpreted limitations into the claims as presented.

The claimed invention, as recited in claim 1, is directed to a method of transmitting data frames over a data network (page 3, lines 1-2), comprising transmitting a plural number of MAC (Media Access Control) data frames (page 3, lines 2-3), each MAC data frame including a header, a data field, and a frame check sequence (FCS) (page 1, line 23-page 2, line 2), with only a single PLCP (Physical Layer Control Procedure) overhead (page 3, lines 2-4); and transmitting a concatenated MAC header indicating said plural number of MAC data frames with the single PLCP (page 3, lines 11-12).

The claimed invention, as recited in claim 11, is directed to a station forming a frame structure of packet data for transmission over a data network (page 3, lines 1-2), wherein the packet data includes: a plural number of MAC (Media Access Control) data frames (page 3, lines 2-3); a PLCP (Physical Layer Control Procedure) overhead including a PLCP preamble and a PLCP header (page 1, line 23-page 2, line 1); and a concatenated MAC header indicating said plural number of MAC data frames with the single PLCP (page 3, lines 11-12), wherein each MAC data frame includes a header, a data field, and a frame check sequence (FCS) (page 1, line 23-page 2, line 2), and only a single one of said PLCP overhead is provided to the plurality of MAC data frames (page 3, lines 4-6).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 1, 2, 4-12, and 14-20 are properly rejected under 35 U.S.C. 103(a) as

being unpatentable over Nishimura (US Patent Application Publication No.

2003/0210673, hereinafter Nishimura) in view of Ho et al. (US Patent Application

Publication No. 2003/0169769, hereinafter Ho).

VII. ARGUMENT

Appellants respectfully traverses the rejections in accordance with the detailed arguments set forth below.

A.   Claims 1, 2, 4-12, and 14-20 are not properly rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura (US Patent Application Publication No. 2003/0210673, hereinafter Nishimura) in view of Ho et al. (US Patent Application Publication No. 2003/0169769, hereinafter Ho).

In re Wada and Murphy, Appeal 2007-3733, the BPAI stated that:

> "When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, "*there must be some articulated reasoning* with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added))."

It is respectfully submitted that the Examiner failed to establish a *prima facie* case of obviousness, because as discussed below, a suggestion of all limitations in the claims is lacking in Nishimura and Ho.

1. Claim 1

Appellants' claim 1 defines a method for transmitting data frames over a data network, and calls in part for:

transmitting a plural number of MAC (Media Access Control) data frames, <u>each MAC data frame including a header, a data field, and a frame check sequence (FCS)</u>, with only a single PLCP (Physical Layer Control Procedure) overhead; and

transmitting <u>a concatenated MAC header indicating said plural number of MAC data frames</u> with the single PLCP. Emphasis added.

The final Office action at page 3 admits that Nishimura does not disclose the method of transmitting a concatenated MAC header indicating said plural number of MAC data frames, and relies on Ho as disclosing this feature. In the "Response to Arguments" section at page 11 of the Office action, Ho is cited as allegedly teaching that the concatenated MAC header further indicates the plural number of MAC data frames transmitted. The Office action notes that the frame subbody count field 126 as disclosed by Ho at paragraph [0044] indicates the number of frame subbodies 132 contained in an aggregation frame 120, and therefore concludes that the frame subbody count field 126 indicates the number of MAC data units included in the aggregation frame. Appellants respectfully disagree and submit that the frame subbody count field 126 as disclosed by Ho is not the same or equivalent to a concatenated MAC header frame in Appellants' claim 1 because Ho's subbody count field 126 does not indicate the number of MAC data frames.

Ho, at paragraph [0044], apparently discloses that a frame subbody count field 126 indicates the number of frame subbodies 132 contained in the frame 120. At paragraph [0041], Ho apparently discloses that each frame subbody 132 apparently contains a MAC service data unit (MSDU) or a fragment of an MSDU.

However, in contrast to Appellants' claimed invention as recited in claim 1, the frame subbody 132 as disclosed by Ho is not the same or equivalent to a MAC data frame as in Appellants' claim 1. Appellants' claim 1 recites, "each MAC data frame including a header, a

data field, and a frame check sequence (FCS)." While each frame subbody 132 in Ho apparently

contains a MAC service data unit (MSDU) or a fragment of an MSDU, Ho's frame subbody 132

does not require a MAC header and an FCS, in contrast to Appellants' claim 1. As such, the

frame subbody 132 in Ho is not the same as a MAC data frame in Appellants' claim 1.

Appellants' claim 1 also recites, "a concatenated MAC header indicating said plural

number of MAC data frames." As pointed out above, the Office admits Nishimura does not

disclose this claimed feature and Appellants respectfully submit that the concatenated MAC

header of Appellants' claim 1 is not the same or equivalent to the frame subbody count field 126

in Ho because, as discussed above, the MAC data frame of Appellants' claim 1 is not the same or

equivalent to the frame subbody 132 in Ho. While Ho's frame subbody count field 126 may

indicate the number of frame subbodies 132 contained in the aggregate frame body, Ho's frame

subbody count field 126 does not indicate the plural number of MAC data frames as in

Appellants' claim 1. As such, Ho does not teach "transmitting a concatenated MAC header

indicating said plural number of MAC data frames," as in Appellants' claim 1.

Because the combination of references does not disclose or even suggest all limitations in

the claim, Appellants respectfully submit that the Office has not presented a prima facie case of

obviousness and as such, the rejection to independent claim 1 under 35 U.S.C. 103(a), is

unfounded and should be reversed. As such, Appellants respectfully submit that claim 1 is in

condition for allowance.

2. Claim 11

Independent claim 11, although different from claim 1, includes several similar

distinguishing features as discussed above with respect to claim 1. For example, claim 11 recites

a station forming a frame structure of packet data for transmission over a data network, while claim 1 recites a method.

Claim 11 recites in part: "a concatenated MAC header indicating said plural number of MAC data frames with the single PLCP, wherein each MAC data frame includes a header, a data field, and a frame check sequence (FCS), and only a single one of said PLCP overhead is provided to the plurality of MAC data frames."

The Office action uses substantially the same arguments as set forth with regard to claim 1, alleging that claim 11 is unpatentable over the combination of Nishimura and Ho. Appellants essentially repeat the above arguments for claim 1 and apply them to claim 11. As such, Appellants submit that the Office has not presented a prima facie case of obviousness and the rejection to independent claim 11 under 35 U.S.C. 103(a), is unfounded and should be reversed. As such, Appellants respectfully submit that claim 11 is in condition for allowance.

3. Claims 2, 4-10, 12, and 14-20

Claims 2 and 4-10 ultimately depend from claim 1; and claims 12 and 14-20 ultimately depend from claim 11. Each dependent claim incorporates by reference all of the features of the allowable parent claim. Furthermore, each dependent claim includes additional distinguishing features. For each dependent claim Appellants essentially repeat the above arguments from claim 1 and applies them to each dependent claim. As such, Appellants respectfully submit that claims 2, 4-10, 12, and 14-20 are allowable at least by virtue of their dependency on allowable base claim and that the rejection under 35 U.S.C. 103(a), is unfounded and should be reversed.

CONCLUSION

In light of the above, appellant respectfully submits that the rejection of claims 1, 2, 4-12, and 14-20 is in error, legally and factually, and must be reversed.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

1. (previously presented) A method of transmitting data frames over a data network, comprising

transmitting a plural number of MAC (Media Access Control) data frames, each MAC data frame including a header, a data field, and a frame check sequence (FCS), with only a single PLCP (Physical Layer Control Procedure) overhead; and

transmitting a concatenated MAC header indicating said plural number of MAC data frames with the single PLCP.

2. (original) The method of claim 1, wherein said PLCP overhead comprises a PLCP preamble and a PLCP header.

3. (cancelled)

4. (previously presented) The method of claim 1, wherein said concatenated MAC header further indicates a length of said plurality of MAC data frames.

5. (previously presented) The method of claim 4, including inserting said PLCP preamble after transmission of some of said plurality of MAC data frames.

6. (original) The method of claim 4, wherein said PLCP overhead is sent with a first one of said plurality of MAC data frames.

7. (previously presented) The method of claim 2, wherein the header, data field, and frame check sequence correspond to a MAC header portion, a MAC frame body portion, and a CRC (Cyclic Redundancy Check) portion, respectively.

8. (original) The method of claim 7, wherein said plurality of MAC data frames are addressed to a common destination, said concatenated MAC header further indicates said destination, and said MAC header portion in each data frame is a compressed MAC header that does not include a portion indicating said destination.

9. (original) The method of claim 1, wherein said data network is a wireless data network.

10. (original) The method of claim 9, wherein said wireless data network uses IEEE 802.11 protocol.

11. (previously presented) A station forming a frame structure of packet data for transmission over a data network, wherein the packet data includes:

a plural number of MAC (Media Access Control) data frames;

a PLCP (Physical Layer Control Procedure) overhead including a PLCP preamble and a PLCP header; and

a concatenated MAC header indicating said plural number of MAC data frames with the single PLCP,

wherein each MAC data frame includes a header, a data field, and a frame check sequence (FCS), and only a single one of said PLCP overhead is provided to the plurality of MAC data frames.

12. (previously presented) The station of claim 11, wherein said single PLCP overhead is provided in front of a first one of said plurality of MAC data frames.

13. (cancelled)

14. (previously presented) The station of claim 13 wherein said concatenated MAC header further indicates a length of said plurality of MAC data frames.

15. (previously presented) The station of claim 14 wherein said concatenated MAC header is located between said PLCP overhead and said first one of said plurality of MAC data frames.

16. (previously presented) The station of claim 12 wherein the header, data field, and frame check sequence correspond to a MAC header portion, a MAC frame body portion, and a CRC (Cyclic Redundancy Check) portion, respectively.

17. (previously presented) The station of claim 16 wherein said concatenated MAC header indicates a common destination of said plurality of MAC data frames, and said MAC header portion in each of said data frames is a compressed MAC header that does not include a portion indicating said common destination.

18. (previously presented) The station of claim 17 wherein said data network is a wireless data network.

19. (previously presented) The station of claim 18 wherein said wireless data network uses IEEE 802.11 protocol.

20. (previously presented) The station of claim 12, wherein the PLCP overhead includes a PLCP preamble.

IX. EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title nor any other evidence entered by the examiner and relied upon by appellant in the appeal.

X. RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any appeals or interferences related to the present application.